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ABSTRACT

This information brief explains the State of Minnesota statutory provisions that affect the employment rights of K-12 public school teachers in Minnesota. It describes the required probationary period, the conditions of continuing employment for those teachers who successfully complete the probationary period, and the procedures that must be followed when terminating, discharging, or placing those teachers on unrequested leaves of absence. The statutory provisions differ for teachers in non-first class city schools and first class city schools (Minneapolis, St. Paul, and Duluth); these statutory provisions are listed in a chart at the end of the brief. (ND)

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Information Brief

ED 404 309

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Conditions of Continuing Employment for K-12 Public School Teachers in Minnesota

This information brief explains the statutory provisions that affect the employment rights of Minnesota's K-12 public school teachers. It describes the required probationary period, the conditions of continuing employment for those teachers who successfully complete the probationary period, and the procedures that must be followed when terminating, discharging, or placing those teachers on unrequested leaves of absence. The statutory provisions differ for teachers in non-first class city schools and first class city schools (Minneapolis, St. Paul and Duluth). These statutory provisions are listed in a chart at the end of the brief.

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Employment Conditions and Rights for K-12 Public School Teachers

Two sections of Minnesota Statutes govern conditions of employment for licensed K-12 teachers in Minnesota's public schools. Section 125.12 contains general provisions for teachers' continuing contract rights in public non-first class city[1] schools throughout Minnesota. Section 125.17 contains similar provisions governing teachers' tenure rights in first class city (Minneapolis, St. Paul and Duluth) public schools. The terms "continuing contract rights" and "tenure rights" mean that a school district may not dismiss a teacher without first demonstrating the cause for that dismissal. The terms are equivalent in the procedural protections they afford teachers and may be used interchangeably.

Probationary Teachers[2]

Under state law, after a newly-licensed probationary teacher successfully completes three years of continuous employment, he or she becomes a continuing contract teacher if employed by a non-first class city school district, or tenured teacher if employed by a first class city school district. During the probationary period, a school district has significant discretion in deciding whether or not to renew the probationary teacher's employment contract. In non-first class city schools, the employing school district has the discretion to renew or not renew probationary teachers' annual contracts for any reason or no reason, as long as the reason is not illegal.[3] A school district must notify a probationary teacher before June 1 that it will not renew the teacher's contract. The Minneapolis, St. Paul or Duluth school board may or may not renew a probationary teacher's contract, as it sees fit.[4] Once a teacher receives a

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[1] For legislative purposes, Minnesota Statutes, section 410.01 divides Minnesota's cities into four classes based upon the size of the cities' population. First class cities, which have more than 100,000 inhabitants, include Minneapolis, St. Paul and Duluth. Under the statute, which was enacted in 1951, a first class city can not be reclassified "unless its population decreases by 25 percent from the census figures which last qualified the city for inclusion in the class."

[2] State law gives "the general control and government of the school" to qualified public school teachers. A qualified teacher is one who holds a valid license to perform particular education-related services. The Board of Teaching issues licenses to classroom teachers. The state Board of Education issues licenses to supervisory personnel, including superintendents, principals and other school administrators.

State law defines "teacher" to include classroom teachers, principals and other professional employees. Superintendents are excluded from the definition of "teacher" for most purposes.

[3] For example, a school district may not terminate a probationary teacher on the basis of the teacher's race.

[4] The school board must consult with the peer review committee charged with evaluating the probationary teacher before it decides whether or not to renew the probationary teacher's contract.

continuing contract or tenure, the teacher becomes entitled to a number of employment-related protections, including bumping rights and "just cause"[5] and due process guarantees.[6]

Teachers who successfully serve a three-year probationary period when employed to teach for the first time thereafter must serve a one-year probationary period in each non-first class city school district in which they are subsequently employed.

Continuing Contract and Tenure Guarantees

Non-First Class City Schools

Teachers who satisfactorily complete the three-year probationary period in a school district have a continuing contract with the district. Teachers' continuing contracts remain in full force and effect unless:

- the school board and the teacher modify the contract;
- the school board terminates the teacher[7] before April 1 for inefficiency, neglect of duty, conduct unbecoming a teacher, or other grounds making the teacher unfit;
- the school board places the teacher before June 1 on an unrequested leave of absence;
- the school board temporarily suspends the teacher and places the teacher on a leave of absence for health reasons;
- the school board immediately discharges the teacher[8] for immoral conduct, conduct unbecoming a teacher, failure to teach, gross inefficiency, willful neglect of duty, or

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[5] "Just cause" requires a school board to have a legitimate, statutorily defined reason affecting a teacher's competency or fitness in order to dismiss a continuing contract teacher.

[6] Due process protections guarantee a teacher a fair hearing to contest a district's decision to dismiss the continuing contract teacher.

[7] A school board that seeks to terminate a continuing contract teacher at the end of the school year must give the teacher written notice of the teacher's deficiency and a reasonable amount of time to correct the deficiency.

[8] When a school board seeks to immediately discharge a teacher, it must show that the teacher's conduct is not remediable. The board has no obligation to give the teacher a written notice of deficiency or an opportunity to correct the deficiency when the teacher's conduct is not remediable.

continuing physical or mental disability;[9] or

- the teacher resigns before April 1.

First Class City Schools

Teachers who successfully complete the three-year probationary period in the Minneapolis, St. Paul or Duluth school district "continue in service and hold their respective position during good behavior and efficient and competent service and shall not be discharged or demoted except for cause after a hearing." A school board may discharge or demote teachers during or after the probationary period for:

- immoral character, conduct unbecoming a teacher,[10] or insubordination;
- failure to teach;
- inefficiency in teaching or in management of a school;
- affliction with a communicable disease; or
- discontinuance of position or lack of pupils.

Hearing Procedures for Continuing Contract or Tenured Teachers Who Are Terminated, Discharged or Demoted

Non-First Class City Schools

State law describes the hearing procedures that a school board must follow when terminating or discharging a teacher. A teacher facing termination or immediate discharge can request a public or private hearing before the school board or an arbitrator. During a hearing, the board and the teacher may be represented by counsel, who has the right to examine witnesses and present arguments. A school board must base its decision to dismiss a teacher upon substantial and competent evidence in the hearing record. The teacher may appeal a board decision to the state courts.

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[9] Minnesota Statutes, section 125.12, subdivision 7. Discharging a teacher for a disability may violate the Americans with Disabilities Act (ADA), which prohibits discrimination against people with disabilities in employment and education.

[10] "Conduct unbecoming a teacher" includes unfair discriminatory practices in educational institutions as defined in chapter 363 on human rights (see section 363.03, subdivision 5).

When a teacher requests a termination or immediate discharge hearing before an arbitrator, the arbitrator decides, based upon a preponderance of the evidence, whether to terminate or discharge the teacher. The arbitrator's decision is final and binding on the parties, and may not be appealed except on technical grounds.

Cities of the First Class

State law describes the procedures the Minneapolis, St. Paul or Duluth school board must follow before discharging or demoting a teacher. A board may discharge or demote a teacher only after a full public or private hearing before the board or an arbitrator, at the teacher's election. The board may suspend a teacher against whom it has filed charges. Both parties may be represented by counsel, who may examine witnesses and present arguments. Both parties have the right to have a written record. A vote by a majority of school board members is required to discharge or demote the teacher. The parties may appeal a board decision to the state courts.

When a teacher elects a hearing before an arbitrator, the arbitrator decides, based upon a preponderance of the evidence, whether to discharge or demote the teacher. An arbitrator's decision is final and binding on the parties, and may not be appealed except on technical grounds.

Unrequested Leaves of Absence[11]

District Plans for Discontinuing Positions

A school board and the exclusive bargaining representative of the teachers may negotiate a plan for placing teachers on unrequested leaves of absence because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidating districts.[12] If the school board and the teacher's exclusive representative fail to negotiate such a plan, statutory terms control.

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[11] Under section 125.12, subdivisions 6a and 6b, a school board may place a continuing contract teacher on an unrequested leave of absence, without pay or fringe benefits, when the board discontinues the teacher's position, lacks a sufficient number of students, faces financial limitations, or merges classes as a result of consolidating districts.

[12] School board decisions affecting teachers' tenure or continuing contract rights, including decisions to place tenured teachers on an unrequested leave of absence or reinstate tenured teachers after placing them on an unrequested leave of absence, have been extensively litigated.

Required Hearing

A board must hold a public hearing on unrequested leaves of absence before June 1. A majority roll call vote of the full board is required to place a teacher on an unrequested leave of absence.

Length of Service Determination by Seniority

Teachers' seniority is determined by their length of service with the school district; teachers are placed on unrequested leaves of absence on the bases of the inverse order of their employment and their areas of certification. If teachers are certified in more than one area, their seniority applies to each area in which they are certified. An important aim of the seniority-based system is to reward those teachers with the longest service by giving them maximum employment security. Statutory terms also can affect teachers' resignations, leaves of absence, multiple areas of certification, ties in seniority and part-time teaching experience.

Teachers' Right to Bump

Bumping occurs when a more senior teacher who is about to lose his or her teaching position moves directly into a less senior teacher's position under section 125.12, subdivision 6b, or under the negotiated terms of a master employment contract. A more senior teacher has a statutory right to bump a less senior teacher. The specific contractual terms giving teachers bumping rights may vary by school district.

Option to Realign Positions

Realignment is an alternative to bumping. It is different from bumping in that it allows the district to shift positions and reassign a more senior teacher to accommodate a less senior teacher so that the least senior teacher is let go. Realignment gives school districts some discretion when making difficult decisions about staff reductions. In opting to realign positions, districts may consider such factors as the length of a teacher's service, the welfare of the students and the public, and the ease of reassigning teachers or realigning course schedules.

The table below outlines the differences between the statutory provisions affecting teachers employed in non-first class city school districts and teachers employed in the Minneapolis, St. Paul and Duluth school districts. These differences result both from the intent of lawmakers to create substantive differences and differences in various drafters' choice of words over time.

Statutory Provisions on Continuing Employment for Minnesota's Public School Teachers

	Non-First Class City Schools (MS §125.12)	First Class City Schools (MS §125.17)
Teacher Defined 125.12, subd. 1 125.17, subd 1(a)	Teachers include principals, supervisors, classroom teachers and other professional employees who hold teaching licenses. Superintendents are excluded except for limited purposes.	Teachers include principals, supervisors, classroom teachers, placement teachers and visiting teachers, and counselors and school librarians who hold teaching licenses.
Probationary Period 125.12, subd. 3 125.17, subd. 2	The first three consecutive years of a teacher's first teaching experience in a single school district is the probationary period. The school board may or may not renew a probationary teacher's contract, as it sees fit. A full time probationary teacher is evaluated at least three times per year. The school board must give the probationary teacher written notice of termination before June 1. The teacher has a one-year probationary period in each school district in which the teacher is thereafter employed.	The first three years of consecutive employment is the probationary period. During this period, the board may or may not renew the teacher's annual contract, as it sees fit. A full time probationary teacher is evaluated at least three times per year. The school board must give the probationary teacher written notice of termination before June 1.
Continuing Contract or Tenure 125.12, subd. 4 125.17, subd. 3	A teacher has a continuing contract if the teacher completes a probationary period and is not discharged or advised of the district's refusal to renew the teacher's contract. The teacher's contract remains in full force and effect until: • the contract is modified by the board and the teacher; • the teacher is terminated or placed on an unrequested leave of absence; • the teacher is discharged; or • the teacher resigns.	After completing the probationary period without being discharged, a teacher is reemployed to continue teaching. Teachers hold their position during good behavior and efficient and competent service and cannot be discharged or demoted except for cause.

Statutory Provisions on Continuing Employment for Minnesota's Public School Teachers
Continued

	Non-First Class City Schools (MS §125.12)	First Class City Schools (MS §125.17)
Unrequested Leaves of Absence 125.12, subds. 6a, 6b 125.17, subds. 4, 11(a)	The school board and the teachers' exclusive bargaining representative may negotiate a plan providing for unrequested leaves of absence without pay or fringe benefits for as many teachers as may be necessary because of discontinued positions, lack of students, financial limitations, or merged classes that result from districts consolidating. Statutory provisions governing unrequested leaves apply if no plan is negotiated. The school board must hold a public hearing on unrequested leaves of absence before June 1. A majority vote of the full board is required to place a teacher on an unrequested leave of absence.	A teacher whose services are terminated due to a discontinued position or a lack of pupils, receives first consideration for other district positions for which the teacher is qualified. Within a department, teachers are discontinued in the inverse order in which they were employed.
Suspensions and Leaves of Absence for Health Reasons 125.12, subd. 7 125.17, subd. 4(4)	Grounds for temporary suspension and leaves of absence include having a communicable disease, mental illness, substance addiction or other serious incapacity. A process exists for taking such action without a teacher's consent. The suspended teacher receives sick leave benefits, at least until the amount of the teacher's unused accumulated sick leave is used up. The teacher is entitled to be reinstated to the teacher's position within 12 months of the date of the disability. If the teacher does not qualify for reinstatement within 12 months, the continuing disability may be a ground for discharge.	A school board may suspend a teacher from regular duty upon filing charges that the teacher is afflicted with active tuberculosis or other communicable disease.

Statutory Provisions on Continuing Employment for Minnesota's Public School Teachers

Continued

	Non-First Class City Schools (MS §125.12)	First Class City Schools (MS §125.17)
Grounds for Termination, Immediate Discharge and Demotion 125.12, subds. 6,8 125.17, subd. 4	A school district may terminate a teacher's continuing contract at the close of the school year for: • inefficiency; • neglect of duty; • persistent violation of school rules; • conduct unbecoming a teacher; or • other good and sufficient grounds. A school district may immediately discharge a tenured teacher for: • immoral conduct; • insubordination; • conviction of a felony; • conduct unbecoming a teacher; • failure to teach; • gross inefficiency; • willful neglect of duty; or • continuing physical or mental disability.	A teacher may be discharged or demoted during or after the probationary period for: • immoral character; • conduct unbecoming a teacher; • insubordination; • failure to teach; • inefficiency; • having a communicable disease or • discontinuance of a position or lack of pupils.
Hearing Procedures for Terminating, Discharging, and Demoting Teachers 125.12, subds. 9, 9a, 10, 11 125.17, subds. 5-10a	The notice of any hearing must be timely and appropriate. The teacher decides whether termination and discharge hearings are public or private. At hearings, the board and the teacher may be represented by counsel at their own expense. Counsel may examine and cross-examine witnesses and present arguments. A board can dismiss a teacher upon substantial and competent evidence in the record. A teacher facing a termination or discharge hearing has the right to have an arbitrator hear the matter. The teacher has the right to seek judicial review of a board decision.	A teacher is entitled to timely written notice and a full hearing before being discharged or demoted. The board and the teacher have the right to have a written record of the proceeding, examine witnesses and be represented by counsel. The teacher decides whether the hearing is public or private. For grounds other than the discontinuance of a position or lack of pupils, a teacher may request arbitration. An arbitration hearing is closed unless a teacher requests that it be open. The arbitrator's decision is final and binding.

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